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House Bill 09-1141
Laws Enforced by the UCCC Administrator

- Initiated by Attorney General's Office (OAG) as a housekeeping bill to clean up four consumer credit laws the office enforces.
- Goal is to simplify a number of consumer credit laws, add needed consumer protections, and eliminate unnecessary business fees.
- **Uniform Consumer Credit Code:**

Consumer Leases (Sections 1 & 2): The bill subjects consumer leases to the same fee limitations as those that apply to credit sales and consumer loans such as late fees and insufficient funds (NSF) fees. Under current law, late fees on credit sales and consumer loans (non-real estate) are limited to \$15 and NSF fees are limited to \$25. These limits do not apply to leases. Consumer leases are subject to the UCCC, but when it was enacted in 1971, there was little consumer leasing. Today, consumers view auto purchases and leases interchangeably but are unaware they have fewer consumer protections for leases. Because sales and leases are functionally equivalent, these protections should be consistently applied.

Other important UCCC protections apply to leases such as a consumer's right to cure default; a co-signer's notice of liability, limitations on default charges, and prohibitions on wage assignments and confessions of judgment. Many auto dealers voluntarily follow UCCC fee caps on leases. However, after the OAG obtained a Consent Judgment against a used car dealer in 2004 for excess fees on credit sales, it stopped selling used cars, started leasing the used cars, and contracted for \$25 late fees – legal but \$10 more than permitted on credit sales.

Fees (Sections 3-5):

The bill repeals an obsolete fee that has not been paid by any lender in over five years (volume fee for insurance premium finance loans).

The bill allows the OAG to set its UCCC license, notification, and volume fees administratively. The fees fund this 100% cash-funded program, are capped by statute, and may only be increased by legislation. Another state law, section 24-75-402, C.R.S., passed in 1994, prohibits agencies from collecting excess fees. Cash

fund fees must be adjusted annually to ensure that revenues meet but do not exceed annual legislative budget appropriations plus permitted fund balance reserves. Consequently, a UCCC statutory fee cap is no longer required. The bill also increases the reserve balance from 16.5% to 33½% because the UCCC budget appropriation is relatively small and revenue varies depending on economic conditions. Setting fees administratively provides greater flexibility to respond to market upturns and downturns.

The bill streamlines fees paid by retail creditors. The bill combines two fees into one and simplifies the fee structure. It requires that all retail creditors pay annual credit notification fees and eliminates volume fees. Notification fees are minimal – currently \$20 per year. Since 2000, only creditors that hold credit and/or lease contracts for more than 30 days must pay the fee. Creditors that assign or sell all of their contracts within that time do not need to pay. Creditors that fail to pay the fee when required are subject to late fees and other penalties. Volume fees are based on the length of time a creditor holds its contracts requiring sellers to determine each year whether they will collect or sell their contracts. Because market conditions may change quickly many creditors may not realize they have to pay the fees. In addition, tying fees to annual credit volume is complex and results in fee fluctuations from year to year. It is simpler for creditors and the OAG if all credit sellers pay the same fee.

The bill allows the OAG to conduct compliance examinations of all creditors as they will all pay notification fees. Now, only direct lenders and creditors that fail to file notification fees are examined. Exams notify lenders and creditors of compliance problems, provide an informal opportunity to correct errors, and are common for regulated financial entities. There will be no cost for the exam unless the creditor has failed to file the required notification fee.

- **Colorado Fair Debt Collection Practices Act** (Section 6): The bill repeals obsolete language authorizing development of a collections manager competency examination. The exam itself was repealed in 2008 (HB 08-1240).
- **Credit Services Organization Act** (Sections 7 & 8): The bill repeals language exempting nonprofits from the consumer protections of the Credit Services Organization Act. These protections include written contracts, notices of consumer rights, and a 5-day right-to-cancel. In the past, some companies have used this exemption to evade the law's consumer protections. In addition, the bill updates language in the required consumer rights notice to include information about free annual credit reports.
- **Debt Management Services Act** (Section 9): The bill removes conflicts and duplication by exempting those persons covered by the Colorado Foreclosure Protection Act from the provisions of the Debt Management Services Act.